

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Jose L. Linares  
v. : Crim No. 05-766  
CEDRIC MORTON : ORDER ON DEFENDANT'S MOTION TO  
 : AMEND A PETITION FOR WRIT OF  
 : CERTIORARI

This matter having come before the Court on a motion to amend a petition for *writ of certiorari* filed by Defendant Cedric Morton on October 18, 2010. The Court has considered the submissions of Defendant and the Government and finds that:

1. On October 25, 2005, Defendant entered into a plea of guilty to Count one of an Information charging him with carjacking resulting in serious bodily injury, in violation of Title 18, United States Code, Section 2119 and Section 2. Schedule A of the plea agreement provides that Defendant "voluntarily waives, the right to file any appeal, any collateral attack, or any other writ or motion . . . which challenges the sentence imposed by the sentencing court if the sentence falls within or below the Guidelines range that results from the agreed total Guidelines offense level of 29."

2. On June 15, 2006, Defendant was sentenced to 105 months imprisonment, a fine of \$5,000 and three years of supervised release. The sentence imposed by the Court was within

the Guidelines range that resulted from the agreed total Guidelines offense level of 29.

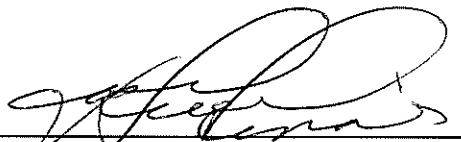
3. Defendant does not challenge the agreed upon plea agreement, in which he waived his right to appeal.

4. Defendant has never filed a notice of appeal or petition for appeal from the sentence imposed.

5. It is too late for Defendant to file a notice of appeal. See Rule 4(b)(1)(A) of the Federal Rules of Appellate Procedure (providing that in a criminal case, a defendant's notice of appeal must be filed in the district court within 10 days after the later of: (i) the entry of either the judgment or the order being appealed; or (ii) the filing of the government's notice of appeal. Fed. R. App. P. 4(b)(1)(A)).

Accordingly, it is on this 29 day of March, 2011,

ORDERED that Defendant's motion to amend a petition for a writ of certiorari is DENIED.

  
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HON. JOSE L. LINARES  
United States District Judge